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September 30, 2021

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VIA ELECTRONIC DELIVERY & COURT FILING

The Honorable Andrew L. Carter, Jr.
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007

Re: United States v. Anthem, Inc., 1:20-cv-02593-ALC

Dear Judge Carter:

We represent the Defendant in this case, Anthem, Inc. ("Anthem"). We write to alert the Court to Judge Kenneth M. Karas's September 29, 2021 Order (Dkt. 127) in *United States ex rel. Cutler v. Cigna Corp.*, No. 17-cv-07515 (S.D.N.Y.), granting Defendant Cigna Corporation's motion to transfer the matter to the Middle District of Tennessee. We submit this letter in connection to Anthem's pending Motion to Transfer this action to the Southern District of Ohio (Dkt. 36). Judge Karas's September 29, 2021 Order is attached hereto as Attachment A, and the transcript of the September 17, 2021 hearing in which Judge Karas stated his reasoning for granting the motion to transfer is attached hereto as Attachment B.

Like this action, *Cutler v. Cigna* involves a False Claims Act claim against a Medicare Advantage Organization ("MAO") concerning the defendant's Medicare risk adjustment data submissions to the Centers for Medicare and Medicaid Services. In granting Cigna's motion to transfer the case from this Judicial District to the Middle District of Tennessee, Judge Karas noted the following:

- "[T]he majority of the Cigna personnel who would serve as some of the key witnesses in the case, they designed, they operated, they supervised the 360 program at issue here during the relevant time period are based in the Middle District of Tennessee." Attachment B (Tr. 61:16-20). These witnesses included those with responsibilities for "the day-to-day supervision of the" program (*id.* 63:9-10); for "develop[ing] critical training materials used to educate providers" (*id.* 63:15-16) and "managing the coding processes associated with the" program (*id.* 63:22-23).
- While the plaintiff identified "some witnesses that might be relevant" in the Southern District of New York (*id.* 64:15-16), Judge Karas held that "the critical witnesses in the case" were located "in the Nashville area" (*id.* 65:1-6).
- "Cigna's connections generally to New York" are "really not relevant because of the specific allegations" concerning the business practices at issue, and because of those practices' "genesis and the management" from Tennessee; for those reasons, "it's pretty clear that the locus of operative facts is in Tennessee." *Id.* 67:5-9.

Should the Court find it useful, Anthem will gladly address the relevance of the *Cutler* decision in supplemental briefing. We thank the Court for its consideration of this letter.

Dated: September 30, 2021

Respectfully submitted,

By: /s/ K. Lee Blalack, II

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cc: Assistant United States Attorney Peter Aronoff, Esq.